IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 37392 of 2007(B)

PETITIONER:

MRS. BETSEY SAJI,
MOOKKILIKKATTU, NARIYANANI P.O.,
PONKUNNAM, KOTTAYAM, PROPRIETOR,
MOOKKILIKKATTU HOLLOW BRICKS,
NARIYANANI, PONKUNNAM.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

RESPONDENTS:

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1. ELIKULAM GRAMA PANCHAYATH,
KOORALI P.O., PONKUNNAM,
KOTTAYAM-686522, REP. BY ITS SECRETARY.

2. THE GENERAL MANAGER,
DISTRICT INDUSTRIES CENTRE,
KOTTAYAM.

3. THE PRESIDENT,
ELIKULAM GRAMA PANCHAYAT,
KOORALI P.O., PONKUNNAM,
KOTTAYAM-686522.

R2 BY GOVT. PLEADER MR.K.J.MOHAMMED ANZAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.37392 of 2007

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Dated: 18th December, 2007

JUDGMENT

Mr.George Thomas Mevada, learned counsel for the petitioner has addressed me extensively on the averments in the Writ Petition and the various grounds raised. He has drawn my attention to the various documents placed on record. Mr.K.J.Mohammed Anzar, learned Government Pleader takes notice on behalf of the 2nd respondent. I have heard the learned Government Pleader also. In the nature of the orders which are being passed hereunder, I am of the view that it is not necessary to issue notice to the Panchayat. Under Ext.P7 the Secretary of the Panchayat has cancelled the licence which had been granted by the Panchayat to the petitioner for the conduct of a hollow bricks manufacturing unit. The reasons stated in Ext.P7 is that the petitioner has not complied with the direction given to the petitioner under Ext.P5 for production of four documents. It is seen that on receiving Ext.P5, the petitioner submitted Ext.P6 before the Secretary of the Panchayat seeking 30 days time for production of the documents. The petitioner has produced Ext.P8 issued by the Pollution Control Board, Ext.P9 issued by the Medical Officer-in-Charge of the Community Health Centre having jurisdiction over the

area, Ext.P10 location plan prepared by the Village Officer and Ext.P11 consent letters issued by the occupants of the residences which are situated very near to the site of the petitioner's factory. Ext.P12 is the representation which the petitioner had submitted before the Secretary of the Panchayat producing copies of Exts.P8, P9, P10 & P11.

2. The learned Government Pleader submits that the statutory remedy which is available to the petitioner against Ext.P7 is to prefer an appeal to the Council. But Mr.George Thomas would refer to Rule 25 of the Kerala Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules, 1996 and submit that the competent authority is the President of the Panchayat and not the Secretary and therefore Ext.P7 can be straightway quashed on the reason that the Secretary of the Panchayat did not have jurisdictional competence to issue Ext.P7. Though the above argument of the learned counsel for the petitioner cannot be said to be without force, since the petitioner himself has accepted Ext.P7 and has procured the documents called for and has produced those documents along with Ext.P12 before the Secretary of the Panchayat, the Writ Petition will stand disposed of directing the third respondent, the President of

the Panchayat to place Ext.P12 along with the four documents mentioned therein, treating the same as an appeal submitted by the petitioner against Ext.P7, hear the petitioner and ensure that the Panchayat takes an early decision on Ext.P12. It should be ensred that decision on Ext.P12 is taken in the light of the documents produced by the petitioner within six weeks of the petitioner making available a copy of the judgment together with a copy of the Writ Petition and all the exhibits. Once decision is taken, the same will be communicated to the petitioner. Till such time as decision is taken and the same is communicated to the petitioner, even during the pendency of Ext.P12, the petitioner should be permitted to operate his unit.

srd **PIUS C.KURIAKOSE, JUDGE**